

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

GRACIELA GALINDO, *et al.*,

Plaintiffs,

v.

REEVES COUNTY, TEXAS, *et al.*,

Defendants.

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EP-10-CV-454-DB

**DECLARATION OF DANIEL DE JESUS, M.D.
UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C. § 1746**

In accordance with the provisions of Section 1746 of Title 28, United States Code, I, the undersigned, DANIEL DE JESUS, M.D., hereby make the following unsworn declaration, under penalty of perjury, pertinent to the above-styled and numbered cause:

I am over the age of 18 and competent to make the following declaration based on my personal knowledge. I am currently employed by the United States Bureau of Prisons (BOP) as a Contract Facility Monitoring Physician for Program Review. I have held this position since December 2004.

My duties are to conduct audits (monitoring or reviews) in the clinical section of the health service departments in BOP contract facilities. During the reviews I am accompanied by one or more health service reviewers who review other areas in the health services department. To conduct the reviews I chose a random sample of records of inmates in the categories described in the Quality Assurance Plan (QAP) 6.8.1 to 6.8.20. I evaluate the records and determine whether or not the medical care provided is in accordance with policies. I write a report and give it to the Monitor in charge, who completes a daily report of all the disciplines reviewed during that week at that facility.

Most of my time is dedicated to conducting audits, some years I have been traveling conducting audits for more than 26 weeks a year.

I also participate in the NTP process (notice to proceed). This is a process in which when a new contract is chosen, Program Review sends a team of reviewers to that facility. We do not conduct a review at that time, but we make comments about findings and we write a report and give it to the person in charge of that process.

I review policies when contract facilities submit a policy they send it to Central Office, and I review it and send it back to my supervisors for further review and then it is sent to the Privatization and Management Branch (PMB). I do not approve their policies, I just review them and make comments.

I am consulted by BOP staff at the contract facilities for medical issues. Whenever a deficiency is noted at a contract facility, the facility has an opportunity to challenge the deficiency. Generally, a contract facility has 15 days after a review is finished and the final report has been completed to challenge a deficiency. If a rebuttal is offered by a facility regarding their medical services, I review the rebuttal. The contract facility can present additional documentation or an explanation in writing. I review the request and recommend that the deficiency either remain or be removed.

My entire work is based on reviewing records. When I conduct a review I chose a random sample of records in each category as specified in the QAP. I chose it from rosters (lists) or log books provided by the facility. It is impossible to review all the records, this is why a random sample is chosen. I do not provide patient care at the contract facilities. In the performance of my duties, I am guided by the Contract Facility Quality Assurance Plan. This is the document that


specifies the areas that I am to review. I also rely on the Statement of Work (SOW). This document states the obligations of the contract facility and it references some of the policies that the contract facility has to be in compliance with. Additionally, I rely on BOP program statements, BOP clinical guidelines, local policies(ie. PNA policies) and CDC guidelines.

Once I have completed my review, I submit my information to the Monitor in Charge. The Monitor in Charge then prepares a preliminary report. The preliminary report is then sent up the chain of command until a final report is issued. In my role as a reviewer, I do not have the authority to compel any changes at a contract facility.

I am aware that PNA provides health care at the Reeves County Detention Center III (RCDC III) which is where Mr. Galindo was housed at the time of his death. I did not participate in the decision to house Mr. Galindo at RCDC III. At those times that I have conducted a review of the RCDC III, PNA oversight staff were generally present. They would conduct themselves in a professional manner. I would only have contact with them during the monitorings at the facilities. I participated in a review of RCDC III conducted between June 18-19, 2008. During this review the Health Services overall were rated as "Acceptable."

In conducting a review, when I would note a deficiency, I would discuss it with the staff at the facility during the monitoring, and they would be very receptive and willing to improve. At no time was I involved in the day to day operations of RCDC III. I did not possess, nor did I exercise, any supervisory authority over any operations or employees of Reeves County, GEO or PNA. Prior to his death, I was not aware of Mr. Galindo and to my knowledge I had not reviewed any of his medical records. Nor was I aware of any concerns regarding treatment or the medical care received by Mr. Galindo at RCDC III.

Executed on this day, 12, August 2011



DANIEL DE JESUS, MD